

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:07-CR-148
)	(Phillips / Shirley)
VINCENT VALENTINE,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This matter came before the Court for an evidentiary hearing on February 1, 2008. Defendant Vincent Valentine was present with his counsel, A. Phillip Lomonaco. The government was represented by Assistant United States Attorney Cynthia Davidson.

At the conclusion of the hearing, the Court asked the parties to address the current trial date of February 21, 2008. Attorney Lomonaco made an oral motion to continue the trial date. The parties agreed that the need for disposition of the suppression motion necessitates a continuance of the trial date. Attorney Lomonaco stated that obtaining a ruling on the suppression issue is in Mr. Valentine's best interest and confirmed that he has discussed this matter with the defendant. The defendant confirmed his agreement that it would be in his best interest to continue the trial date, understood his right to a speedy trial and understood that he will remain in jail pending the trial of this case.

This Court will require time to adequately review the suppression issues and issue a Report and Recommendation. After the Report and Recommendation is made, either party will have 10 days to register an objection with the District Court. Should such an objection be made, the District Court will require a meaningful period of time to review the record and the issues presented. The Court observes that at the time the motion to suppress was filed, all this could not have been accomplished before the trial date of February 21, 2008.

Attorney Lomonaco and AUSA Davidson stated their belief that all the time between the date the motion to suppress was filed, January 10, 2008, and the new date of the trial is excludable from the operation of the Speedy Trial Act. The parties agreed that the need to resolve these important issues of evidence suppression outweigh the interest of the defendant and the public in a speedy trial.

The Court agrees with the parties that the ends of justice served by granting a continuance outweigh the interest of the defendant and the public in a speedy trial. 18 U.S.C. § 3161(h)(8)(A). Given the February 21, 2008, trial date, the Court finds that the failure to grant a continuance would deprive the defendant of the time to pursue his suppression motion, which has now been heard and is awaiting disposition. See 18 U.S.C. § 3161(h)(1)(F). Specifically, the Court will need time, not to exceed thirty days, to prepare a Report and Recommendation to the District Court on the motion. See 18 U.S.C. § 3161(h)(1)(J). Following the filing of the Report and Recommendation, the parties need time to file any objections to the Court's ruling. Should objections be made, the District Court will need time to rule upon the report and those objections. Finally, the parties will need time to prepare for trial in light of the ruling on the suppression issues. The Court finds that all of this could not have taken place before the February 21, 2008, trial date or in less than 60 days. Thus,

without a continuance, counsel would not have the reasonable time necessary to prepare for trial despite their use of due diligence. See 18 U.S.C. § 3161(h)(8)(B)(iv). The Court also finds, and the parties agree, that all the time between the January 10, 2008, filing of the motion to suppress and the new trial date of April 17, 2008, is fully excludable time under the Speedy Trial Act for the reasons set forth herein. See 18 U.S.C. § 3161(h)(1)(F), (J), and (h)(8)(A)-(B).

The oral motion to continue the trial date was granted. Accordingly, the trial of this matter is reset to commence on **April 17, 2008, at 9:00 a.m.** before the Honorable Thomas W. Phillips, United States District Judge.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge